

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BIOVAIL LABORATORIES INTERNATIONAL SRL)
a corporation of Barbados,)
)
Plaintiff,) C.A. Nos. 05-586 (GMS)
) 05-730 (GMS)
v.) 06-620 (GMS)
) (CONSOLIDATED)
ANDRX PHARMACEUTICALS, LLC and)
ANDRX CORPORATION,)
)
Defendants.)

SIXTH REVISED SCHEDULING ORDER

This ____ day of _____, 2007, the Court having discussed adjustments to the schedule in this case at the May 24, 2007 hearing, and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation or binding arbitration;

IT IS ORDERED that the Court's Fifth Revised Scheduling Order (D.I. 137) is hereby modified as follows:

1. **Discovery**. Expert discovery in this case shall be initiated so that it will be completed on or before August 31, 2007. Biovail's rebuttal expert reports on the issue of inequitable conduct shall be served by June 29, 2007.

a. **Discovery and Scheduling Matters**: Should counsel find they are unable to resolve a discovery or scheduling matter, the party seeking the relief shall contact chambers at (302) 573-6470 to schedule a telephone conference. Not less than forty-eight hours prior to the teleconference, the parties shall file with the court, via electronic means (CM/ECF), a **joint, non-argumentative** letter agenda not to exceed two (2) pages outlining the issue(s) in dispute. A sample

letter can be located on this court's website at www.ded.uscourts.gov. Should the court find further briefing necessary upon conclusion of the telephone conference, unless otherwise directed, the party seeking relief shall file with the court a **TWO PAGE LETTER**, exclusive of exhibits, describing the issues in contention. The responding party shall file within five (5) days from the date of service of the opening letter an answering letter of no more than **TWO PAGES**. The party seeking relief may then file a reply letter of no more than **TWO PAGES** within three (3) days from the date of service of the answering letter.

2. **Applications by Motion.** Except as provided in this Scheduling Order or for matters relating to scheduling, any application to the Court shall be by written motion filed, via electronic means (CM/ECF). Unless otherwise requested by the Court, counsel shall **not** deliver copies of papers or correspondence to Chambers. Any non-dispositive motion should contain the statement required by Local Rule 7.1.1.

3. **Oral Argument.** If the Court believes that oral argument is necessary, the Court will schedule a hearing Pursuant to District of Delaware Local Rule 7.1.4.

4. **Pretrial Conference.** On October 10, 2007, beginning at 9:30 a.m., the Court will hold a telephonic Pretrial Conference with counsel. Unless otherwise ordered by the Court, the parties should assume that filing the Joint Pretrial Order satisfies the pretrial disclosure requirement in Federal Rule of Civil Procedure 26(a)(3). A sample form of Pretrial Order can be located on this court's website at www.ded.uscourts.gov. On September 17, 2007, plaintiff's counsel shall forward to defendants' counsel a draft of the pretrial order containing the information plaintiff proposes to include in the draft. On September 28, 2007, Defendants' counsel shall, in turn, provide to plaintiff's counsel any comments on the plaintiff's draft as well as the information defendants propose to include in the proposed pretrial order. No motions *in limine* shall

be filed in this action. The parties shall file with the court the **joint** proposed final pretrial order with the information required by the form of Final Pretrial Order which can be located on this court's website at www.ded.uscourts.gov on or before the close of business on October 5, 2007.

5. **Trial.** This matter is scheduled for a bench trial beginning at 9:00 a.m. on October 15, 2007.

6. **Scheduling.** The parties shall contact chambers, at (302) 573-6470, only in situations where scheduling relief is sought, and only then when ALL participating counsel is on the line for purposes of selecting a new date.

UNITED STATES DISTRICT JUDGE

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